UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

CHRISTIE M. BOUFFORD,

          Plaintiff

v.   Civil Action No.: 2:05-0507

JO ANNE B. BARNHART,
Commissioner of
Social Security,

          Defendant

MEMORANDUM OPINION AND ORDER

        This matter is before the court pursuant to Rule 72(b)

of the Federal Rules of Civil Procedure on plaintiff's objections

to the proposed Findings and Recommendation of United States

Magistrate Judge Mary E. Stanley, entered June 21, 2006.

I.

        Plaintiff Christie Boufford, now 30, filed applications

for social security income and disability insurance benefits in

September 2003, alleging disability as of September 1, 2003, due

to back problems, sensory nerve damage through the right leg, and

carpal tunnel syndrome. A hearing was conducted on plaintiff's

claim on October 25, 2004, subsequent to which the administrative

law judge ("ALJ") issued a decision dated December 22, 2004,

finding that plaintiff was not entitled to benefits. The

decision became final on May 6, 2005, after the Appeals Council

denied plaintiff's request for review.

On June 23, 2005, plaintiff filed this action seeking

judicial review of the administrative decision pursuant to 42

U.S.C.A. § 405(g). The sole issue before the court is whether

the final decision of the Commissioner of the Social Security

Administration denying plaintiff's claim for benefits is

supported by substantial evidence. See 45 U.S.C.A. § 405(g);

Craig v. Chater, 76 F.3d 585, 589 (4th Cir. 1996). The

magistrate judge, in her findings and recommendation, concluded

that the ALJ's decision was supported by substantial evidence,

and recommended that the Commissioner's decision denying

plaintiff benefits be affirmed.

Plaintiff filed objections thereto on July 10, 2006,

contending that the magistrate judge incorrectly: (1) decided

that the opinions of treating psychiatrist Dr. Ahmed Faheem are

not entitled to controlling weight and that the ALJ had not erred

in so finding (Obj. at 1-2); (2) determined that plaintiff had

requested a remand solely to consider newly discovered evidence; and (3) recommended that the court find that the ALJ's decision is supported by substantial evidence.

With respect to the third objection, plaintiff has failed to identify with particularity that portion of the magistrate judge's recommendation to which she takes exception other than to repeat the same matter argued in connection with the first objection. The objection is general in nature, and does not meet the requirements of Fed R Civ P 72(b) which requires that each objection be "specific". The court thus finds no merit in plaintiff's third objection.

II.

Having reviewed the record de novo, the court observes that each the first and second areas of objection were addressed at length by the magistrate judge, who found that substantial evidence supported the finding that plaintiff's impairments are not disabling. Specifically, plaintiff has the residual functional capacity to perform light work, reduced by nonexertional limitations as specified by the ALJ. (See Tr. at 21-22.)

Plaintiff first argues that Dr. Faheem's opinions are "supported by clinical and laboratory diagnostic techniques and are not inconsistent with other substantial evidence." (Obj. at 1.) But, as the magistrate judge pointed out, Dr. Faheem's opinions conflicted, to some extent, with clinical and objective findings contained in his own notes. (PFR at 16.) The magistrate judge also noted that Dr. Faheem was the only medical source to opine that plaintiff's condition was totally debilitating (PFR at 17), that plaintiff's "self-reported activities were consistent with an ability to perform simple, repetitive, routine job tasks" (PFR at 17-18), and that Sunny Bell, M.A. found plaintiff's concentration, persistence, and pace to be within normal limits (PFR at 18). Inasmuch as the totality of the evidence contradicts Dr. Faheem's opinion that plaintiff was mentally incapacitated from working, the ALJ's determination that Dr. Faheem's opinions were not entitled to controlling weight is supported by substantial evidence.

Second, the plaintiff contends that the magistrate judge improperly found that plaintiff "was requesting a remand to the Office of Hearings and Appeals solely to consider newly submitted medical evidence." (Obj. at 3.) The plaintiff states that she "has always argued that the [mental residual functional

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capacity evaluation report] was part of the record before this
[h]onorable [c]ourt." (Obj. at 3.) It is clear that the report
was not available to the ALJ, because plaintiff has stated that
she tendered it to the Appeals Council upon receiving notice of
the unfavorable ALJ decision. (Pl. Resp. to Def. Brief in Supp.
of Mot. for J. on the Pleadings at 1.) Inasmuch as the report
was submitted post-hearing, the magistrate judge properly applied
the standards set forth in 42 U.S.C. § 405(g) and Wilkins v.
Secretary, 953 F.2d 93, 96 (4th Cir. 1991), in the course of
arriving at her determination that the mental residual functional
capacity evaluation report did not meet, at least, the
materiality requirement for consideration by the council. Having
found, after a thorough discussion of the relevant factors, the
report to be immaterial, the magistrate judge appropriately
concluded that remand was not warranted either by 42 U.S.C. §
405(g) or otherwise. Plaintiff has suggested no adequate reason
to disturb the magistrate judge's finding in this respect.
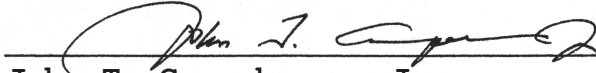

                              III.

        For the reasons stated, and having reviewed the record
de novo, the court adopts and incorporates herein the magistrate
judge's proposed findings and recommendation in their entirety.

It is ORDERED that plaintiff's motion for judgment on the
pleadings be, and it hereby is, denied; judgment be, and it
hereby is, granted in favor of defendant; and the final decision
of the Commissioner be, and it hereby is, affirmed.

        The Clerk is directed to forward certified copies of
this written opinion and order to all counsel of record and the
United States Magistrate Judge.

                        DATED: July 31, 2006

                        _____
                        John T. Copenhaver, Jr.
                        United States District Judge